

REMARKS/ARGUMENTS

STATUS OF CLAIMS

In response to the Office Action dated July 9, 2007, claims 2-12 have been amended.

Claims 1-12 are now pending in this application. No new matter has been added.

The indication that claims 2-4 and 10-12 are objected to, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims is acknowledged and appreciated.

By this response, dependent claims 2-12 have been amended to begin with "The" instead of "A". The claim amendments are non-narrowing claim amendments.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 103

I. Claim 1 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yosida (U.S. Patent No. 6,803,955) in view of Aotsuka (U.S. Patent No. 7,148,920).

The present application was filed March 24, 2004 and is assigned to Fuji Photo Film Co. Ltd., as evinced by the assignment recorded March 24, 2004 at reel 015135, frame 0642. Aotsuka (U.S. Patent No. 7,148,920), was filed February 12, 2003, is assigned to Fuji Photo Film Co. Ltd., as noted at item (73) on the front of the patent, and was patented on December 12, 2006. Therefore, it qualifies as prior art under 35 U.S.C. § 102(e).

However, since Aotsuka (U.S. Patent No. 7,148,920) and the present application were, at the time the claimed invention was made, owned by Fuji Photo Film Co. Ltd. or subject to an

obligation of assignment to Fuji Photo Film Co. Ltd., Aotsuka (U.S. Patent No. 7,148,920) cannot be used to preclude patentability of the present application under 35 U.S.C. § 103(c).

U.S. Publication No. 2003/0169354 is the published U.S. Application corresponding to Aotsuka (U.S. Patent No. 7,148,920) and was published on September 11, 2003. Applicants claim priority of Japanese Application 2003-082085, filed in Japan on March 25, 2003. Therefore, to perfect the claim of priority, a verified translation of Japanese Application 2003-082085 is submitted herewith. Thus, Applicants are entitled to their priority date (March 25, 2003) which is prior to the September 11, 2003 publication date of U.S. Publication No. 2003/0169354.

II. Claims 5-9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yosida (U.S. Patent No. 6,803,955) in view of Aotsuka, as applied to claim 1, and further in view of Endo et al. (JP 4298175).

However, as Aotsuka (U.S. Patent No. 7,148,920) cannot be used to preclude patentability of the present application under 35 U.S.C. § 103(c), withdrawal of the present rejection of claims 5-9 under 35 U.S.C. § 103(a) is respectfully solicited.

CONCLUSION

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523)

Application No: 10/807,300
Reply to Office Action of July 9, 2007

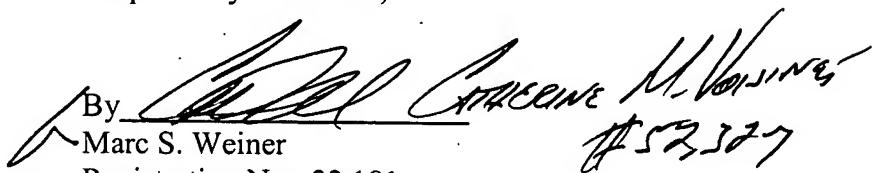
No.: 1259-0247PUS1

at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: *September 27, 2007*

Respectfully submitted,

By 
Marc S. Weiner

Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant


MSW/EJW/khm